

TRIBAL SELF-DETERMINATION

ISSUE

Under self-determination, tribes have three options for receiving their health care: directly from the Indian Health Service (IHS), contracting with the IHS to provide services, or compacting with the IHS and having the administrative control, operation, and funding transferred to American Indian and Alaska Native tribal governments.



BACKGROUND

President Nixon was instrumental in promoting the policy and legislation for tribal self-determination and in 1975, President Ford signed into law the Indian Self-Determination and Education Assistance Act (ISDEA), P.L. 93-638. This landmark legislation recognized the primacy of the government-to-government relationship between the United States and sovereign tribal nations. The Act provides tribes the option of either assuming from the IHS the administration and operation of health services and programs in their communities or remaining within the IHS-administered direct health system. Subsequent amendments to the ISDEA have only strengthened the Federal policy of self-determination for Indian people. In 1996, tribal leaders and representatives participated with Federal agencies in a negotiated rulemaking process that resulted in a Final Rule to implement amendments (i.e. Title I) to the Self-Determination Act. In 1994, the ISDEA was amended to authorize a Self-Governance Demonstration Program in IHS to enable selected tribes to explore self-determination management and health delivery initiatives.

SITUATION

In August 2000, P.L. 106-260 authorized a permanent self-governance program in the IHS and required that implementing regulations be developed through a negotiated rulemaking process. Self-determination activity will continue to increase in the future. At present, over 40% of the IHS program is contracted by tribes. If current tribal planning and preparations are carried out, the IHS program will be more than 50% contracted in FY 2002.

OPTIONS/PLANS

Activities are underway to establish a negotiated rulemaking committee and publish implementing regulations as required by P.L. 106-260. The IHS will continue to downsize relative to the continued increase in self-determination activity and the transfer of IHS resources to tribal governments.

ADDITIONAL INFORMATION

For referral to the appropriate spokesperson, contact the IHS Public Affairs Staff at 301-443-3593.